APPENDIX NO. 1.

(Pet. Exhibit No. 7.)

ORDER AND DECREE OF STATE PROBATE COURT
DATED MARCH 21, 1945.

[Title of Court and Cause.]

The report of the Inheritance Tax Appraiser, John R. Moore, having been filed in the above-entitled estate on or about May 9, 1944, and objections having been duly served and filed to said report, and thereafter amended objections having been duly served and filed to said report, and

The clerk of the above entitled court having duly fixed the time. in accordance with the Inheritance Tax Act of the State of California, for a hearing of the said report, objections and amended objections, and having duly given notice of said hearing as required by the Inheritance Tax Act of the State of California, and

The hearing on said report, objections and amended objections having been duly and regularly continued for trial from time to time until January 30, 1945, and

The hearing and trial on the said report, objections and amended objections and the issues drawn thereby, came on regularly for trial before this court in Department 24 thereof, Honorable Thomas C. Gould, Judge presiding, on January 30, 1945; a hearing and trial thereon was duly and regularly had on January 30, 1945, and on February 1, 6, 9 and 13, 1945; Donald R. Peck and Morton L. Barker, by Morton L. Barker, appearing as attorneys for the State Controller of the State of California, and Harry J. Miller appearing as attorney for the executrix and objector, Elizabeth Rainger; evidence, both oral and written, having been introduced; the proceedings and issues

having been contested and argued by and on behalf of the State Controller of the State of California and the Executrix and objector, Elizabeth Rainger; and the matter having been submitted to the Court.

First: The court decrees and finds that at the time of the death of the decedent, Ralph Rainger, he owned an undivided one-half (½) interest as his sole and separate property, and his wife, Elizabeth Rainger, owned the other undivided one-half (½) interest as her sole and separate property, in property held for the production of income, and which property consisted of the contract and membership rights in connection with contracts between the decedent and the American Society of Composers, Authors and Publishers, and particularly the contract dated June 27, 1935, and an extension contract with respect thereto dated September 12, 1938, and in connection with the subject matter and rights involved in the contract between Elizabeth Rainger and the said Society dated December 8, 1942, together with the present value and worth, as of the date of the decedent's death, of future royalties and income from the said Society and in connection with the said contracts; and the right, title and interest in musical works composed by the decedent during his lifetime, including the right of public performance thereof, the right to royalties, income and license fees thereon, and the copyrights, renewal rights and performance rights in connection with said musical works, and together with the present value and worth, as of the date of the decedent's death, of future royalties and income therefrom.

The court decrees and finds that upon the death of the decedent, Ralph Rainger, the said undivided one-half (½) interest of the decedent as his sole and separate property in the foregoing property held for the production of in-

come actually was transferred to and acquired by his wife, Elizabeth Rainger, by bequest, devise and inheritance, from the decedent, Ralph Rainger, and under and by virtue of the last will and testament of the decedent, Ralph Rainger.

The court decrees and finds that at the time of the death of the decedent, Ralph Rainger, the clear and fair market value of the said undivided one-half (½) interest of the decedent as his sole and separate property in the foregoing property held for the production of income was $20,000.00.

Second: The court decrees and finds that the property,—in the Inventory and Appraisement, in the Supplementary Inventory and Appraisement, in the report of the State Inheritance Tax Appraiser, and on Exhibit "A" attached to the Amended Objections to the report of the Inheritance Tax Appraiser,—and that any property in which the decedent, Ralph Rainger, had any interest, at the time of his death, was not the community property of the decedent, Ralph Rainger, and his wife, Elizabeth Rainger, and that there should not be any deduction as a community property exemption; and that the said property, and any property in which the decedent had any right, title or interest of any kind at the time of his death, was owned by the decedent, Ralph Rainger, and his wife, Elizabeth Rainger, as tenants in common, and that only an undivided one-half (½) interest therein was owned by and belonged to the decedent at the time of his death as his sole and separate property, and the other undivided one-half (½) interest therein was owned by and belonged to the decedent's wife, Elizabeth Rainger, as her sole and separate property; and that only the undivided one-half (½) interest of the decedent, Ralph Rainger, was

transmitted, passed and transferred to Elizabeth Rainger upon and by the death of the decedent, Ralph Rainger, under his last will and testament; and that only the value of the said undivided one-half (½) interest of the decedent, Ralph Rainger, should be included in the determination and fixing of the inheritance tax.

The court decrees and finds that at the time of the death of the decedent, Ralph Rainger, the clear and fair market value of the said undivided one-half (½) interest of the decedent as his sole and separate property, exclusive of that set forth in paragraph First of this Order, was $104,627.40.

Third: The court finds and decrees that the statutory exemption in this estate in connection with the inheritance tax is $24,000.

Fourth: The objection to that portion of the inheritance tax report which provides that there was and is real estate of the value of $510.00 and which real estate was more generally referred to as the Norwalk property, should be and is hereby overruled.

Fifth: The court decrees and finds that the clear and fair market value of the said property, at the time of the death of the decedent, Ralph Rainger, was $124,627.40; and that deductions which should be made from the said property for the purpose of determining and fixing the inheritance tax are a total of $9,627.40.

The court decrees and finds there is an insurance exemption of $50,000.00; and there is a statutory exemption of $24,000.00.

The court decrees and finds, and it is hereby ordered, that the inheritance tax in the above entitled estate be, and the same is hereby fixed at the sum of $1,370.00.

THOMAS C. GOULD,
Judge of the Superior Court.

APPENDIX NO. 2.

(Portion of Pet. Exhibit No. 8)

ORDER AND DECREE OF STATE PROBATE COURT OF PARTIAL DISTRIBUTION DATED AUGUST 10, 1945.

(Title of Court and Cause.)

The Petition of Elizabeth Rainger, as executrix of the estate of Ralph Rainger, deceased, and as sole devisee and legatee under the Last Will and Testament of the decedent, for Partial Distribution having been filed in the above entitled court on or about July 23rd, 1945; the Clerk of the above entitled court having duly appointed and fixed August 10th, 1945, in accordance with the statutes of California for a hearing of the said petition; notice of the time and place of the said hearing having been duly given as required by the statutes of California;

The said Petition for Partial Distribution, together with an Amendment thereto, and an affidavit regarding the payment of claims, having been duly filed and presented to the court; the court, after hearing the evidence, and considering the said petition, amendment thereto, and affidavit, and the papers, records and orders on file in the above entitled court in this State, finds that the allegations of Petition for Partial Distribution as amended are true, and

On March 21, 1945, the court in the above entitled estate made, signed and filed its order fixing the inheritance tax in the above entitled estate at the sum of $1,370.00, and determining issues raised by the inheritance tax appraiser's report and the objections thereto; no appeal was taken from said order and it has become final; the court finds that the said inheritance tax has been paid, and

The court finds that the time for the filing or presenting claims against the estate has expired, and that all uncontested claims have been paid; and

The court finds that the estate is not in a condition to be finally closed or distributed, and that the allegations of the Petition for Partial Distribution are true, and that no injury will result to the estate or any person interested therein by reason of the distribution herein ordered; and

The court finds, adjudges and decrees that no bond from the said Elizabeth Rainger or anyone else is necessary in connection with the partial distribution, and any bond in connection therewith be and the same is hereby dispensed with;

It is therefore hereby ordered, adjudged and decreed that the said right, title and interest of the decedent, Ralph Rainger, in and to the assets set forth on Exhibit A attached to this order be and the same is hereby distributed to Elizabeth Rainger, as devisee and legatee under the last will and testament of the decedent, and that no distribution shall be had, until further order of this court, of the said right, title and interest of the decedent, Ralph Rainger, in the assets set forth on Exhibit B attached to this order.

Los Angeles, California, August 10th, 1945.

JOHN GEE CLARK,
Judge of the Superior Court.

OK

Mullin

(Attached Exhibits of Assets.)

INDEX

	Page
Opinions below	1
Jurisdiction	1
Questions presented	2
Statute involved	2
Statement	3
Argument	9
Conclusion	13

CITATIONS

Cases:	
Blair v. *Commissioner*, 300 U. S. 5	10
Eisenmenger v. *Commissioner*, 145 F. 2d 103	11
Freuler v. *Helvering*, 291 U. S. 35	10, 11
Helvering v. *Rhodes' Estate*, 117 F. 2d 509	11
Henricksen v. *Baker-Boyer National Bank*, 139 F. 2d 877	11
Order of Travelers v. *Wolfe*, 331 U. S. 586	12, 13
Statute:	
Internal Revenue Code, Sec. 811 (26 U. S. C. 1946 ed., Sec. 811)	2, 8

938105—51